IN THE HIGH COURT OF JUDICATURE, ANDHRA PRADESH
AT HYDERABAD

(Special Original Jurisdiction)

THURSDAY, THE FOURTH DAY OF NOVEMBER
TWO THOUSAND AND FOUR

PRESENT

THE HON'BLE MR JUSTICE A.GOPAL REDDY

WRIT PETITION NO: 19058 of 2004

Between:

Siddavaram Salamma W/o S.Sikhamani
Rekalakunta Village, Gopavaram Mandal, Cuddapah District

... PETITIONER

AND

1 The Special Deputy collector Land Acquisition, Somasila Projects, Units No.IV. Atmakur, Cuddapah District
2 Mannem Jayarami Reddy S/o Rosi Reddy Rekalakunta village, Gopavaram Mandal Cuddapah District
3 Chintamreddy Chinna Venkata Reddy S/o Pedda Venkataiah Rekalakunta village, Gopavaram Mandal Cuddapah District.

...RESPONDENTS

Petition under Article 226 of the constitution of India praying that in the circumstances stated in the Affidavit filed herein the High Court will be pleased to issue a writ, order or direction more particularly one in the nature of writ of Mandamus declaring the impugned order in RC.B-33/96 dt. 05/11/2002 of the 1st respondent as arbitrary, illegal, against the principles of natural justice and unconstitutional and grant such other necessary relief or reliefs as this Hon'ble court deem fit, just and proper in the circumstances of the case.

Counsel for the Petitioner: MR.K.RATNAM

Counsel for Respondent: GP FOR LAND ACQUISITION FOR R1,

For R2 and R3: ---

The Court, at the admission stage, made the following:

ORDER:

W.P. No. 12075 of 2002 filed earlier by the petitioner to consider her claim for compensation for the lands which were acquired, was disposed of with a direction to consider the said claim made by the petitioner. On such disposal, the Special Deputy Collector, Land Acquisition Officer vide Proc.R.C.B-33/96 dated 05-11-2002 rejected the claim of the petitioner to refer the matter to the Civil Court under Section 30 of the Land Acquisition Act
(for short 'the Act') holding that petitioner failed to prove *prima facie* evidence for entitlement to receive the compensation. In view of the said rejection, petitioner filed a suit as an indigent in P.O.P.No.806/2002 on the file of the Court of the District Judge, Cuddapah impleading the awardee as well as the Special Deputy Collector, Land Acquisition as defendants to the suit in which he obtained injunction in I.A.No.3817/2002 not to pay compensation to the awardee. Aggrieved by the same, the defendant in whose favour award was passed filed C.R.P.No.138 of 2003 in this Court under Article 227 of the Constitution of India, which was allowed and the injunction order granted was set aside holding that the Land Acquisition Officer rejected to refer the matter to the Civil Court under Section 30 of the Act by impugned proceedings dated 05-11-2002 and the said order has not been questioned and therefore the Civil Suit filed by her is not maintainable and the Civil Court cannot entertain the civil suit which is barred by implication under Section 9 of the Code of Civil Procedure.

2. As held by the Apex court in ***Dr. G. H. Grant V. The State of Bihar***, a person who is claiming compensation in the land is not precluded in seeking a reference under Section 30 of the Land Acquisition Act even after passing an award. In the event if the

Land Acquisition Officer refuses to refer the matter under Section 30 of the Act, proper remedy for such claimant is to file a civil suit. Since the petitioner already instituted a civil suit claiming compensation for the land, no interference is called for setting aside the order passed by the Land Acquisition Officer dated 05-11-2002 and directing to refer the matter to the civil court under Section 30 of the Act.

3. It is now contended by the learned counsel for petitioner that in view of the observation made by this Court in the abovementioned C.R.P. that civil suit is not maintainable petitioner will be remediless.

4. It is needless to observe that petitioner, if aggrieved by the order in revision, can always prefer an appeal before the Supreme Court questioning the correctness of the same.

The writ petition is accordingly dismissed. No costs.

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A. **GOPAL REDDY, J**

November 4, 2004

MRR

ASSISTANT REGISTRAR

// TRUE COPY //

SECTION OFFICER

To:

1 The Special Deputy collector Land Acquisition,

Somasila Projects, Unit No.IV. Atmakur, Cuddapah

District

2 Two C.C.s to the G.P. for Land Acquisition, High Court

Buildings, Hyderabad (OUT)
3 Two C.D. Copies.